

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 1
IB-190(PB)/2017

IN THE MATTER OF:

Union Bank of India ... Petitioners/Applicant
And
Era Infra Engineering Limited. ... Respondents

SECTION: Under Section 7 of Insolvency & Bankruptcy Code, 2016 (CIRP)

Order delivered on 03.06.2019
16.07.2019

Coram:

CHIEF JUSTICE (RTD.) M. M. KUMAR
HON'BLE PRESIDENT

SH. S. K. MOHAPATRA
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the RP: Mr. K. Dutta, Advocate

ORDER

CA - 869(PB)/2019

This is an application filed by the Resolution Professional under section 60(5) of the IBC, 2016 with a prayer for issuance of direction to the Commercial Tax Department, Division - I, Bilaspur, Chhattisgarh. It is appropriate to mention that the Corporate Insolvency Resolution Process were initiated in respect of the corporate debtor on 08.05.2019 and a Resolution Professional was appointed to conduct the Insolvency Resolution process. He came across the order of the Asst. Commissioner, Commercial Tax Department, Circle- II, Bilaspur, Chhattisgarh issued on 16.03.2017, whereby the accounts of the corporate debtor were frozen and the detail of the bank accounts are as under:



1. Axis Bank, B2-B-3, Sector – 16, Noida (UP). Bank Account No. 910020004964122.
2. Axis Bank, Hari Nagar Opposite Hotel Classic Residency, Main Haridwar Delhi Road, Haridwar, Uttrakhand, Pin No. 249407. Bank Account No. 913020003361857.
3. Axis Bank, Ground Floor and Nezza Nine 10/90, P-Block Kanad Palace, Delhi, Pin No. 110001. Bank Account No. 913020056551881.

The attachment is continuing even after the initiation of Corporate Insolvency Resolution Process on 08.05.2018, when CP No. (IB)-190(PB)/2018 was admitted.

Notice of this application was issued on 08.05.2019 and the Resolution Professional has filed an affidavit showing that non-applicant respondent namely Asst. Commercial Tax Department, Circle- II, Bilaspur, Chhattisgarh stands served.

Despite the matter having being called twice, no one has put in appearance. Having heard the learned counsel we are of the considered view that during the moratorium no action can be taken against the corporate debtor nor any such action taken earlier can continue. The freezing of bank accounts is a coercive step and is an impediment for the Resolution Professional to conduct the Corporate Insolvency Resolution Process effectively. We have also made it clear in our order dated 08.05.2018. Reliance was also placed on our order dated 30.04.2019 passed in CA 359(PB)/2019 in CP No. (IB)-547(PB)/2018 (Mr. Bhanu Ram & Ors. Vs M/s HBN Daries & Allied Ltd).



Keeping in view the aforesaid discussion, this application succeeds. The non-applicant is directed to defreeze the accounts of the corporate debtor forthwith so as to enable the Resolution Professional to carry on the Corporate Insolvency Resolution Process effectively.

We further direct the non-applicant respondent to keep all the proceedings in abeyance till the period of the moratorium in respect of the corporate debtor continues to be in force and no recovery certificate against the corporate debtor shall be given effect till then.

The application stands disposed off.

The Resolution Professional shall place a copy of this order before the concerned bank as well as before the Asst. Commissioner, Commercial Tax Department, Circle- II, Bilaspur, Chhattisgarh.

Sd/

(M. M. KUMAR)
PRESIDENT

Sd/

(S. K. MOHAPATRA)
MEMBER (TECHNICAL)

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Sd/-

(M. M. KUMAR)
PRESIDENT

Sd/-

(S. K. MOHAPATRA)
MEMBER (TECHNICAL)